CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 52447 of 2022

(Arising out of Order-in-Original No. RPR/EXCUS/000/COM/ST/12/2022-2023 dated 22.09.2022 passed by the Principal Commissioner, CGST & ST, Raipur (CG))

M/s. Dee Vee Projects Ltd. .....**Appellant**
K-3, 1st Floor, Vikash Complex
PH Road, Korba (CG)

VERSUS

Principal Commissioner, CGST & CX,
Raipur (CG) .....**Respondent**

APPEARANCE:
Shri Abhas Mishra, Advocate for the Appellant
Shri Rajeev Kapoor, Authorized Representative of the Department

CORAM : HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing/Decision: 15.03.2023

FINAL ORDER NO. 50398/2023

JUSTICE DILIP GUPTA

This appeal seeks the quashing of the order dated September 22, 2022 passed by the Principal Commissioner confirming the demand of service tax amounting Rs.10,85,70,355/- with interest and penalty.

2. It transpires from the records that a notice dated October 22, 2018 was issued to the M/s. Patel Enterprises. The impugned order records that the said noticee had not submitted any reply to the show cause notice, despite repeated opportunities having been provided. The order also records that the noticee also did not appear for personal hearing though five opportunities had been provided.

3. Shri Abhas Mishra, learned counsel appearing for the appellant has submitted that a separate notice also dated October 22, 2018 was issued to M/s. Dee Vee Projects Ltd. for the same period 2013-14 and 2014-15 and on the same allegations. Learned counsel pointed out that on April 01, 2013, the business of the partnership firm M/s. Patel Enterprises was taken over by M/s. Dee Vee Projects Ltd. and in response to the show cause notice issued to M/s. Dee Vee Projects Ltd, facts, including facts relating to M/s. Patel Enterprises, had been stated. Learned counsel fairly stated that though a separate reply should have been filed by M/s. Patel Enterprises and M/s. Patel Enterprises should also have appeared for hearing, but because of a bonafide belief that since a reply had been filed by M/s. Dee Vee Projects Ltd and a representative for M/s. Dee Vee Projects Ltd had appeared on the date fixed, neither a reply was filed by M/s. Patel Enterprises nor any representative had appeared on its behalf. Learned counsel for the appellant also stated that the demand proposed in the show cause notice issued M/s. Dee Vee Projects Ltd has been dropped by an order dated November 10, 2022 passed by the Principal Commissioner.

4. Shri Rajeev Kapoor, learned authorized representative appearing for the Department has, however, supported the impugned order and submitted that since a separate show cause notice had been issued to M/s. Patel Enterprise, a reply should have been filed and a representative should also have appeared on the date fixed.

5. The submissions advanced by the learned counsel for the appellant and the learned authorized representative appearing for the Department have been considered.

6. It is no doubt true that separate notices were issued to M/s. Patel Enterprises and M/s. Dee Vee Projects Ltd, but in view of the peculiar facts and circumstances of the case that the business of M/s. Patel Enterprises was taken over by M/s. Dee Vee Projects Ltd on April 01, 2013; the period involved in both the show cause notices is 2013-14 and 2014-15, similar allegations have been made; and the fact that the demand raised against M/s. Dee Vee Projects Ltd has been dropped by an order dated November 10, 2022, it appears appropriate to remand the matter to the Adjudicating Authority so as to enable the appellant to submit a reply to the show cause notice and also appear on the date to be fixed by the Adjudicating Authority. The appellant shall, therefore, submit a reply to the show cause notice within a period of eight weeks from today. If such a reply is submitted, the Adjudicating Authority shall make all endeavors to decide the matter expeditiously as it relates to the period 2013-14 and 2014-15.

7. The order dated September 22, 2022, impugned in the present appeal is, accordingly, set aside and the appeal is allowed to the extent indicated above with the aforesaid observations.

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Archana